IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4509 of 2007()

CRIME NO. 198/07 OF PEROORKADA POLICE STATION

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PETITIONER/ACCUSED NO.1

MANIKUTTN,VILAYIL HOUSE,
T.C.5/628,PEROORKADA,
PEROORKADA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4509 of 2007

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Dated this the 26th day of July, 2007

O R D E R

Petitioner is the first accused in a crime under Section 394 I.P.C. The crux of the allegations is that when the defacto complainant/S.I. of police, Museum police station was proceeding on a two wheeler along with his brother, the accused persons, two in number, attacked them, caused damage to the scooter and took away the mobile phone and cash of the victims. The alleged incident took place on 8.4.2007. Though the defacto complainant is a police officer and must be imputed with the knowledge of the requirement of prompt lodging of F.I.R., he lodged the F.I. statement only on 10.4.2007. Investigation is in progress. The second accused has already been arrested. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations against him are totally false. This case, according to the counsel for the petitioner, shows how police officials can misuse their power to register a case and vex and harass innocent individuals. The real incident, according to the petitioner, did not take place as alleged

by the police. As a matter of fact, the defacto complainant and his brother were drunk. They had created some scene in the local Bar and were trying to move away from the bar in the two wheeler. The two wheeler was taken rashly and negligently and at that time there was a possibility of a collision between the said two wheeler and the two wheeler in which the petitioner and the second accused were travelling. There were heated exchange of words. The petitioner gathers that some disciplinary proceedings have been initiated against the defacto complainant. Purely to escape from that, the complaint was lodged after two days. It is convincingly indicated that the allegations are false and are made with vexatious intent. In these circumstances, anticipatory bail may be granted to the petitioner, prays the counsel.

3. The application is not opposed by the learned Prosecutor. He submits that appropriate conditions may be imposed.

4. I must say that the allegations, on the face of it, do not inspire confidence at all. I need only mention that the Commissioner of Police must immediately take steps to ensure that the investigation into this crime is conducted by a very senior police officer, who will be unbiased, fair, efficient and sincere in the conduct of the investigation. I am satisfied that

the petitioner can be granted anticipatory bail, subject to conditions and subject to the above observations.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall appear before the learned Magistrate on 2.8.2007 at 11 a.m. The learned Magistrate shall release him on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the senior police officer, who will be directed to continue the investigation by the Commissioner of Police as and when directed to do so by such Officer.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 2.8.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(b) If the petitioner were arrested prior to his surrender on 2.8.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 2.8.2007.

(R. BASANT)
Judge

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